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HOUSE BILL 984

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

George J. Hanosh

AN ACT

RELATING TO TOBACCO; CHANGING AND ADDING DEFINITIONS IN THE  
CIGARETTE TAX ACT; AMENDING THE CIGARETTE TAX ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-12-2 NMSA 1978 (being Laws 1971,  
Chapter 77, Section 2, as amended) is amended to read:

"7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:

A. "cigarette" means any roll of tobacco [~~or any~~  
~~substitute for tobacco~~] wrapped in paper or in [~~anything that~~  
~~is not one hundred percent~~] any substance not containing  
tobacco or tobacco in any form that is functional in a product  
that, because of its appearance, the type of tobacco used in  
the filler or its packaging and labeling, is likely to be  
offered to or purchased by consumers as a cigarette;

"cigarette" includes bidis, [~~and~~] kreteks and small cigars

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underscored material = new  
[bracketed material] = delete

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1 ~~[sold in packages similar to]~~ when packaged like cigarettes  
2 ~~[unless the cigar is wrapped in one hundred percent tobacco]~~ in  
3 packages of twenty or more; "small cigar" means any roll of  
4 tobacco that is wrapped in leaf tobacco or any substance  
5 containing tobacco, other than any roll of tobacco that is  
6 commonly known as a "cigarette", and that one thousand units of  
7 which weigh not more than three pounds;

8 B. "contraband cigarettes" means cigarette packages  
9 with counterfeit stamps, counterfeit cigarettes, cigarettes  
10 that have false or fraudulent manufacturing labels and  
11 cigarette packages without the tax or tax-exempt stamps  
12 required by the Cigarette Tax Act;

13 C. "department" means the taxation and revenue  
14 department, the secretary of taxation and revenue or any  
15 employee of the department exercising authority lawfully  
16 delegated to that employee;

17 D. "distributor" means a person licensed pursuant  
18 to the Cigarette Tax Act to sell or distribute cigarettes in  
19 New Mexico. "Distributor" does not include:

20 (1) a retailer;

21 (2) a cigarette manufacturer, export warehouse  
22 proprietor or importer with a valid permit pursuant to 26  
23 U.S.C. 5713, if that person sells cigarettes in New Mexico only  
24 to distributors that hold valid licenses under the laws of a  
25 state or sells to an export warehouse proprietor or to another

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1 manufacturer; or

2 (3) a common or contract carrier transporting  
3 cigarettes pursuant to a bill of lading or freight bill, or a  
4 person who ships cigarettes through the state by a common or  
5 contract carrier pursuant to a bill of lading or freight bill;

6 E. "license" means a license granted pursuant to  
7 the Cigarette Tax Act that authorizes the holder to conduct  
8 business as a manufacturer or distributor of cigarettes;

9 F. "manufacturer" means a person that manufactures,  
10 fabricates, assembles, processes or labels a cigarette or that  
11 imports from outside the United States, directly or indirectly,  
12 a finished cigarette for sale or distribution in the United  
13 States;

14 G. "master settlement agreement" means the  
15 settlement agreement and related documents entered into on  
16 November 23, 1998 by the state and leading United States  
17 tobacco product manufacturers;

18 H. "package" means an individual pack, box or other  
19 container; "package" does not include a container that itself  
20 contains other containers, such as a carton of cigarettes;

21 I. "retailer" means a person, whether located  
22 within or outside of New Mexico, that sells cigarettes at  
23 retail to a consumer in New Mexico and the sale is not for  
24 resale;

25 J. "stamp" means an adhesive label issued and

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1 authorized by the department to be affixed to cigarette  
2 packages for excise tax purposes and upon which is printed a  
3 serial number and the words "State of New Mexico" and "tobacco  
4 tax";

5 K. "tax stamp" means a stamp that has a specific  
6 cigarette tax value pursuant to the Cigarette Tax Act; and

7 L. "tax-exempt stamp" means a stamp that indicates  
8 a tax-exempt status pursuant to the Cigarette Tax Act."

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